

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DB STRUCTURED PRODUCTS, INC.

Plaintiff,

-against-

INNOVATIVE MORTGAGE CAPITAL, LLC

Defendant.

ECF CASE

07 Civ. 4099 (GBD)

**AFFIDAVIT OF JOHN P.
DOHERTY IN SUPPORT OF
DEFAULT JUDGMENT**

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

John P. Doherty, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and a member of THACHER PROFFITT & WOOD LLP, attorneys for Plaintiff, DB Structured Products, Inc. ("Plaintiff") in the above-captioned matter.

2. I submit this affidavit pursuant to Rule 55.2(b) of the Civil Rules for the Southern District of New York in support of Plaintiff's application for a Default Judgment against Innovative Mortgage Capital, LLC ("Defendant").

3. On May 25, 2007 the above-captioned action ("Action") was commenced with the filing of the Complaint.

4. On June 16, 2007, a copy of the (i) Complaint; (ii) Summons; (iii) Statement Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure; (iv) Civil Cover Sheet; (v) Individual Practices of Judge George B. Daniels; (vi) Individual Practices of Magistrate Judge Theodore H. Katz; (vii) 3rd Amended Instructions For Filing An Electronic Case or Appeal; (viii) Procedures for

Electronic Case Filing; and (ix) Guidelines for Electronic Case Filing were properly served on Defendant by personally serving Defendant's registered agent, Sean Byerly, 949 Santa Ana St., Laguna Beach, CA 92651. A true and correct copy of the Summons and Complaint is attached hereto as Exhibit A.

5. On July 9, 2007, proof of such service was filed with the Clerk. A true and correct copy of such proof of service is attached hereto as Exhibit B.

6. Defendant has failed to plead or otherwise defend this Action.

7. The time within which Defendant was permitted to file an answer to the Complaint or otherwise move has now expired and has not been extended.

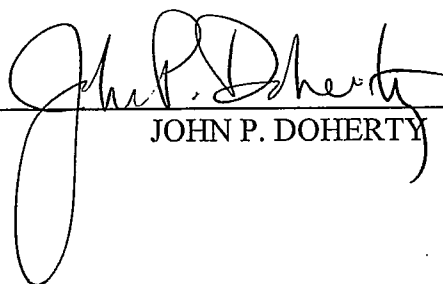
8. On August 16, 2007, the Clerk of the Court entered a Certificate of Default against the Defendant. The Certificate of Default is attached hereto as Exhibit C.

9. As more fully set forth in the Complaint attached hereto as Exhibit A, the Plaintiff's claim is contractual in nature inasmuch as damages sought in the Complaint arise from Defendant's breach of its duties and obligations under a Master Mortgage Loan Purchase and Interim Servicing Agreement ("Agreement") entered into between Plaintiff and Defendant on or about October 1, 2005. Damages to be awarded Plaintiff pursuant to a default judgment can be readily determined by reference to the Agreement and other exhibits to the Complaint. As of August 22, 2007 such damages currently amount to \$816,432.81, as more fully set forth in the Statement of Damages, attached hereto as Exhibit D.

10. Within thirty (30) days following payment in full of the amount awarded by the Default Judgment, Plaintiff shall return to Defendant the Mortgage Loans¹ as set forth in the Agreement.

¹ Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Complaint.

WHEREFORE, Plaintiff requests the Judgment, attached hereto as Exhibit E, be entered against defendant.

By: 
JOHN P. DOHERTY

Sworn to before me this
27th day of August 2007


Notary Public

CHRISTOPHER A. LYNCH
Notary Public, State of New York
No. 02LY6151597
Qualified in Queens County
Commission Expires Aug. 21, 2010